

DECLARATION - USA PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled MANUAL AND AUTOMATIC PROBE CALIBRATION; the specification of which is attached hereto;

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above;

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56;

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first inventor: Mohamed Kheir Diab.

Inventor's signature

Mohamed Kheir Diab

Date

6/6/1995

Residence:

26945 DIAMOND, MISSION VIEJO, CA 92691

(M.K.D.)

~~30041 Tessier, Apt. #98, Laguna Niguel, CA 92677~~

Citizenship:

~~Syria~~

U.S.A.

(M.K.D.)

Post Office Address: same

Full name of second inventor: Esmail Kiani-Azarbayjany

Inventor's signature *Esmail Kiani-Azarbayjany*

Date 6-6-95

Residence: 35 Brindisi, Laguna Niguel, CA 92677

Citizenship: Iran

Post Office Address: same

Full name of third inventor: Charles Robert Ragsdale

Inventor's signature *Charles R Ragsdale*

Date June 5, 1995

Residence: 4139A Hilaria Way, Newport Beach, CA 92663-2608

Citizenship: United States

Post Office Address: same

Full name of fourth inventor: James M. Lepper Jr.

Inventor's signature *James M. Lepper Jr.*

Date 95.06.06

Residence: 28356 Pueblo Drive, Trabuco Canyon, CA 92679-1148

Citizenship: United States

Post Office Address: same

Send Correspondence To:
KNOBBE, MARTENS, OLSON & BEAR
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660-8016

Direct Telephone Calls To:
Stephen C. Jensen

(714) 760-0404

SCJ-4433:nh/vml
052595

COPY

MASIMO.004C2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Diab et al.)	Group Art Unit 3736
)	
Appl. No.	:	09/451,151)	
)	
Filed	:	November 30, 1999)	
)	
For	:	MANUAL AND AUTOMATIC)	
		PROBE CALIBRATION)	
)	
Examiner	:	E. Winakur)	
)	

AFFIDAVIT OF MASSI E. KIANI
IN SUPPORT OF PETITION TO CHANGE NAME

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, MASSI E. KIANI, do declare as follows:

1. I am the inventor of the subject matter claimed in the above-referenced patent application which was filed on November 30, 1999 listing me as one of the inventors under the name Esmaeil Kiani Azarbayjany.

2. On April 5, 1996, I changed my legal citizenship from Iran to the United States.

3. Concurrent with obtaining United States citizenship, my name changed to Massi E. Kiani.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that

Appl. No. : 09/451,151
Filed : November 30, 1999

such willful, false statements may jeopardize the validity of the application or patent issuing therefrom.

Dated: 11/8/01

Old Name: Esmail Kiani Azarbayjani

Signed: Esmail Kiani

New Name: Massi E. Kiani

Signed: Massi E. Kiani

H:\DOCS\SSN\SSN-1767.DOC-1
110001

ASSIGNMENT

26945 DIAMOND M.K.
MISSION VIEJO, CA 92691

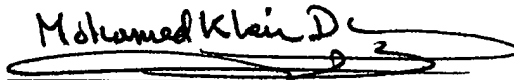
WHEREAS, We, Mohamed Kheir Diab, a Syria citizen, residing at 30041 Tessier, Apt. #98, Laguna Niguel, CA 92677, Esmail Kiani-Azarbayjany, a Iran citizen, residing at 35 Brindisi, Laguna Niguel, CA 92677, Charles Robert Ragsdale, a United States citizen, residing at 4139A Hilaria Way, Newport Beach, CA 92663-2608 and James M. Lepper Jr., a United States citizen, residing at 28356 Pueblo Drive, Trabuco Canyon, CA 92679-1148 have invented certain new and useful improvements in a MANUAL AND AUTOMATIC PROBE CALIBRATION for which we have executed an application for Letters Patent in the United States, on even date herewith;

AND WHEREAS, Masimo Corporation, a California Corporation, with its principal place of business at 26052 Merit Circle, Suite 103, Laguna Hills, CA 92653, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) each to us in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said inventors, do hereby acknowledge that we have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said Masimo Corporation, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and we hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said Masimo Corporation, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we will communicate to the said Masimo Corporation, its successors, legal representatives and assigns, any facts known to us respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said Masimo Corporation, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 6 day of June, 1995

Mohamed Kheir Diab

Mohamed Kheir Diab

STATE OF

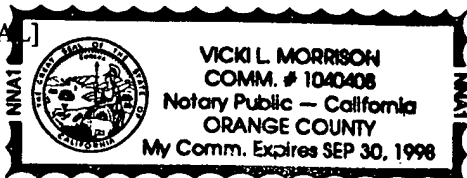
COUNTY OF

]] ss.
]]

On June 6, 1995, before me, Vicki L. Morrison personally appeared Mohamed Kheir Diab personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



Vicki L. Morrison
Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 6 day of June, 1995

Esmail Kiani-Azarbayjany
Esmail Kiani-Azarbayjany

STATE OF



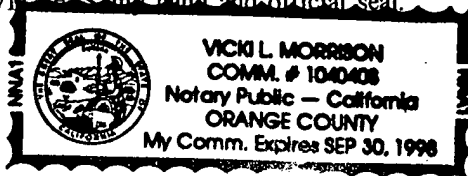
ss.

COUNTY OF

On June 6, 1995, before me, Vicki L. Morrison personally appeared Esmail Kiani-Azarbayjany personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



Vicki L. Morrison
Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 5 day of June, 1995

Charles R. Ragsdale
Charles Robert Ragsdale

STATE OF



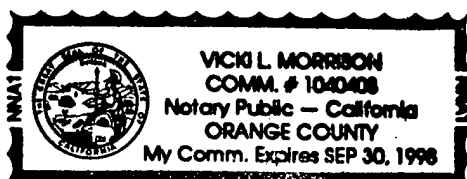
ss.

COUNTY OF

On 6/5/95, before me, Vicki L. Morrison personally appeared Charles Robert Ragsdale personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



Vicki L. Morrison
Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 6 day of JUNE, 1995


James M. Lepper Jr.

STATE OF

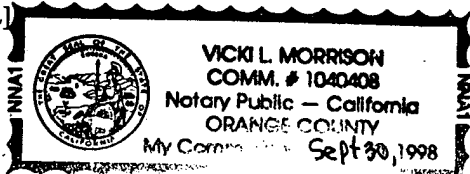
COUNTY OF


ss.

On June 6, 1995, before me, Vicki L. Morrison personally appeared James M. Lepper Jr. personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]




Signature

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	:	Mohamed K. Diab et al.)
)
Serial No.	:	Unknown)
)
Filed	:	Herewith)
)
For	:	MANUAL AND AUTOMATIC PROBE)
		CALIBRATION)
)
Examiner	:	Unknown)
)

ESTABLISHMENT OF RIGHT OF ASSIGNEE TO TAKE ACTION
AND
REVOCATION AND POWER OF ATTORNEY

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The undersigned is empowered to act on behalf of the assignee indicated below (the "Assignee"). The original Assignment of the above-captioned application from the inventor(s) to the Assignee has been submitted to the Assignment Branch for recordation. A true copy of this Assignment is attached hereto. This Assignment represents the entire chain of title of this invention from the Inventor(s) to the Assignee. I have reviewed this Assignment, and to the best of the Assignee's knowledge and belief, the Assignee is the owner of the entire right, title and interest in the above-referenced application.

I declare that all statements made herein are true, and that all statements made upon information and belief are believed to be true, and further, that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that willful, false statements may jeopardize the validity of the application, or any patent issuing thereon.

The undersigned hereby revokes any previous powers of attorney in the subject application, and hereby appoints Louis J. Knobbe, Registration No. 18,780; Don W. Martens, Registration No. 21,107; Gordon H. Olson, Registration No. 20,319; James B. Bear, Registration No. 25,221; Darrell L. Olson, Registration No. 28,247; William B. Bunker, Registration No. 29,365; William H. Nieman, Registration No. 30,201; Lowell Anderson, Registration No. 30,990; Arthur S. Rose, Registration No. 28,038; James F. Lesniak, Registration No. 25,240; Ned A. Israelsen, Registration No. 29,655; Drew S. Hamilton, Registration No. 29,801; Jerry T. Sewell, Registration No. 31,567; John B. Sganga, Jr., Registration No. 31,302; Edward A. Schlatter, Registration No. 32,297; Gerard von Hoffmann, Registration No. 33,043; William C. Rooklidge, Registration No. 31,791; Joseph

Serial No. : Unknown
Filed : Herewith

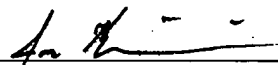
R. Re, Registration No. 31,291; John M. Carson, Registration No. 34,303; Andrew H. Simpson, Registration No. 31,469; Daniel E. Altman, Registration No. 34,115; Anita M. Kirkpatrick, Registration No. 32,617; Ernest A. Beutler, Registration No. 19,901; Vito A. Canuso, Registration No. 35,471; William H. Shreve, Registration No. 35,678; Stephen C. Jensen, Registration No. 35,556; Steven J. Nataupsky, Registration No. 37,688; Michael Fedrick, Registration No. 36,799; Michael H. Trenholm, Registration No. 37,743; AnneMarie Kaiser, Registration No. 37,649; Edward J. Treska, Registration No. 37,744; Nancy Ways Vensko, Registration No. 36,298; Glenn R. Smith, Registration No. 38,308; Jonathan A. Barney, Registration No. 34,292; Ronald J. Schoenbaum, Registration No. 38,297; Richard C. Gilmore, Registration No. 37,335; John R. King, Registration No. 34,362; William S. Reimus, Registration No. 38,279; Stephen S. Korniczky, Registration No. 34,853; Frederick S. Berretta, Registration No. 38,004; Yasuo Muramatsu, Registration No. 38,684; Myra H. McCormack, Registration No. 36,602; Raimond J. Salenieks, Registration No. 37,924; Renée E. Canuso, Registration No. 36,657; Guy L. Cumberbatch, Registration No. 36,114; Michael L. Fuller, Registration No. 36,516; and Christine M. Jones, Registration No. 35,182, Knobbe, Martens, Olson & Bear, 620 Newport Center Drive, Sixteenth Floor, Newport Beach, California 92660, Telephone (714) 760-0404, as its attorneys with full power of substitution and revocation to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith. This appointment is to be to the exclusion of the inventor(s) and his attorney(s) in accordance with the provisions of 37 C.F.R. § 3.71.

Please direct all communications relative to said application to the following correspondence address:

Stephen C. Jensen
KNOBBE, MARTENS, OLSON & BEAR
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660
Telephone: (714) 760-0404

MASIMO CORPORATION

Dated: 6-6-95

By: 
Joe E. Kiani

Title: President
Address: 26052 Merit Circle, Suite 103,
Laguna Hills, CA 92653

Serial No.: Unknown
Filing Date: Herewith

PATENT
Client Code: MASIMO.004A
Page 1

ASSIGNMENT

26945 DIAMOND M
MISSION VIEJO, CA 92691

WHEREAS, We, Mohamed Kheir Diab, a Syria citizen, residing at 30041 Tessier, Apt. #98, Laguna Niguel, CA 92677, Esmail Kiani-Azarbayjany, a Iran citizen, residing at 35 Brindisi, Laguna Niguel, CA 92677, Charles Robert Ragsdale, a United States citizen, residing at 4139A Hilaria Way, Newport Beach, CA 92663-2608 and James M. Lepper Jr., a United States citizen, residing at 28356 Pueblo Drive, Trabuco Canyon, CA 92679-1148 have invented certain new and useful improvements in a MANUAL AND AUTOMATIC PROBE CALIBRATION for which we have executed an application for Letters Patent in the United States, on even date herewith;

AND WHEREAS, Masimo Corporation, a California Corporation, with its principal place of business at 26052 Merit Circle, Suite 103, Laguna Hills, CA 92653, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) each to us in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said inventors, do hereby acknowledge that we have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said Masimo Corporation, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, renewals and reissues thereof; and we hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said Masimo Corporation, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we will communicate to the said Masimo Corporation, its successors, legal representatives and assigns, any facts known to us respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said Masimo Corporation, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 6 day of June, 1995

Mohamed Kheir Diab
Mohamed Kheir Diab

STATE OF

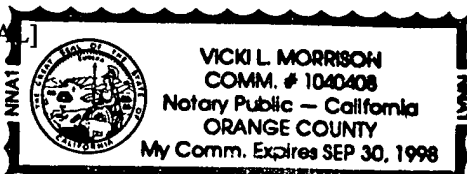
]] ss.
]]

COUNTY OF

On June 6, 1995, before me, Vicki L. Morrison personally appeared Mohamed Kheir Diab personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



Vicki L. Morrison
Signature

Serial No.: Unknown
Filing Date: Herewith

PATENT
Client Code: MASIMO.004A
Page 2

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 6 day of June, 1995

Esmail Kiani-Azarbayjany
Esmail Kiani-Azarbayjany

STATE OF

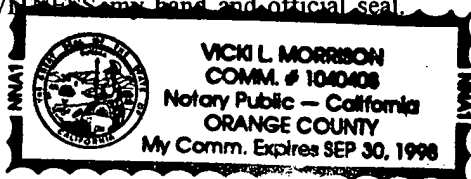
ss.

COUNTY OF

On June 6, 1995, before me, Vicki L. Morrison personally appeared Esmail Kiani-Azarbayjany personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]



Vicki L. Morrison
Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 5 day of June, 1995

Charles R. Ragsdale
Charles Robert Ragsdale

STATE OF

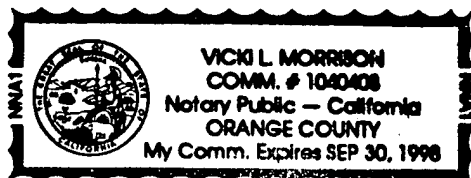
ss.

COUNTY OF

On 6/5/95, before me, Vicki L. Morrison personally appeared Charles Robert Ragsdale personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

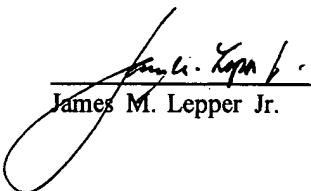


Vicki L. Morrison
Signature

Serial No.: Unknown
Filing Date: Herewith

PATENT
Client Code: MASIMO.004A
Page 3

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 6 day of JUNE, 1995


James M. Lepper Jr.

STATE OF

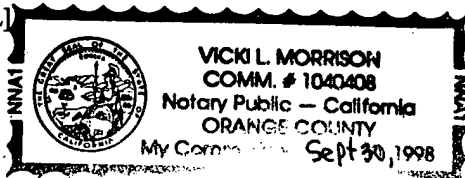
COUNTY OF

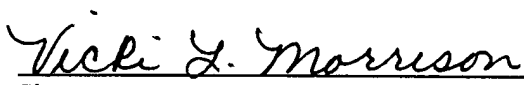
ss.

On June 6, 1995, before me, Vicki L. Morrison personally appeared James M. Lepper Jr. personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]




Signature

SCJ-4436:nh/vml
052595